MT LEGISLATIVE HISTORY

Chapter 19 1979

Bill H 130 S _____ Original bill & hist. ✓ C

H. Committee on Natural Resources S. Committee on Natural Resources

Hearing Date(s)			Hearing Date(s)		
1/17	LC ✓		1/29	LC ✓	
_____	___C		_____	___C	
_____	___C		_____	___C	
_____	___C		_____	___C	
Date Out _____	___C		_____	___C	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NO. 19

HOUSE BILL NO. 130

INTRODUCED BY RAMIREZ, GERKE

COURTESY OF THE State Law Library of Montana

IN THE HOUSE

January 12, 1979	Introduced and referred to Committee on Natural Resources.
January 17, 1979	Committee recommend bill do pass as amended and be placed on Consent Calendar. Report adopted.
January 18, 1979	Printed and placed on members' desks.
January 20, 1979	On motion rules suspended and bill placed on Third Reading this day.
January 22, 1979	Third Reading Consent Calendar passed. Transmitted to Second House.

IN THE SENATE

January 23, 1979	Introduced and referred to Committee on Natural Resources.
January 30, 1979	Committee recommend bill be concurred in. Report adopted.
February 1, 1979	Second Reading, concurred in. Statement of Intent adopted.
February 5, 1979	Third Reading, concurred in.

IN THE HOUSE

February 6, 1979	Returned from Second House. Concurred in.

House BILL NO. 130

INTRODUCED BY Ramirez, Fuller

A BILL FOR AN ACT ENTITLED: "AN ACT TO DESIGNATE THE BOARD OF OIL AND GAS CONSERVATION AS THE MONTANA JURISDICTIONAL AGENCY FOR PURPOSES OF THE NATURAL GAS POLICY ACT OF 1978 AND ANY SUCCESSOR OR SIMILAR LEGISLATION AND TO PROVIDE FOR A PROCEDURE TO IMPLEMENT STATE AUTHORITY UNDER THE FEDERAL LAW; AMENDING SECTIONS 82-11-101 AND 82-11-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-101, MCA, is amended to read:

"82-11-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(3) "Determinations" means those decisions delegated to the state by or under authority of the Natural Gas Policy Act of 1978 or any successor or similar legislation relating to oil and gas.

~~(3)~~ (4) "Enhanced recovery" means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool; such artificial means or application includes pressuring, cycling, pressure maintenance, or injection into the pool of any substance or form of energy as is contemplated in secondary recovery and tertiary programs but does not include the injection in a well of a substance or form of energy for the sole purpose of aiding in the lifting of fluids in the well or stimulating of the resevoir at or near the well by mechanical, chemical, thermal, or explosive means.

~~(4)~~ (5) "Field" means the general area underlaid by one or more pools.

~~(5)~~ (6) "Gas" means all natural gases and all other fluid hydrocarbons as produced at the wellhead and not defined as oil in subsection (6) of this section.

~~(6)~~ (7) "Oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form by ordinary production methods and which are not the result of condensation of gas before or after it leaves the reservoir.

~~(7)~~ (8) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, and the term includes all

HB 130
INTRODUCED BILL

LC 0941/01

persons holding such authority by or through him.

~~(8)~~(9) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any agency or instrumentality of the state or any governmental subdivision thereof.

~~(9)~~(10) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.

~~(10)~~(11) "Producer" means the owner of a well or wells capable of producing oil or gas or both.

~~(11)~~(12) "Waste" means:

(a) physical waste, as that term is generally understood in the oil and gas industry;

(b) the inefficient, excessive, or improper use of or the unnecessary dissipation of reservoir energy;

(c) the location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(d) the inefficient storing of oil or gas. (The production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board, is not waste within the meaning of this definition.)"

NEW SECTION. Section 2. Role of board in implementation of national gas policy. The board is designated as the state jurisdictional agency for purposes of the Natural Gas Policy Act of 1978 or any successor or similar legislation relating to oil and gas.

NEW SECTION. Section 3. Appointment of examiners. The board shall designate one or more examiners to make determinations as defined in 82-11-101. To be appointed as an examiner, an individual must possess a graduate degree in petroleum engineering or geology.

NEW SECTION. Section 4. Procedure to make determinations. (1) The board shall adopt rules to govern the making of determinations. These rules shall be adopted pursuant to the Montana Administrative Procedure Act, but the procedure to be employed in making determinations is not subject to the Montana Administrative Procedure Act. The rules may provide that testimony may only be submitted in writing and that no cross-examination is allowed.

(2) Any determination made by an examiner under this

section and [section 3] shall be reviewed by the board upon request of two members of the board. The review by the board is subject to the Montana Administrative Procedure Act. The request for review must be made within 20 days after an examiner makes a determination. If no request for a review is made during this 20-day period, the examiner's determination is considered to be the determination of the board and the determination, together with the accompanying record, shall be forwarded to the federal energy regulatory commission for review. If a review by the board is requested, the board shall forward the final determination to the federal energy regulatory commission.

NEW SECTION. Section 5. Public access. All applications for a determination and all determinations made pursuant to [sections 3 and 4] shall be made available for public inspection at the Billings and Helena offices of the board.

Section 6. Section 82-11-141, MCA, is amended to read:

"82-11-141. Administrative procedure. (1) ~~The~~ Unless otherwise provided, the Montana Administrative Procedure Act applies to this chapter.

(2) An order or amendment thereof, except in an emergency, may not be made by the board without a public hearing upon at least 10 days' notice. The public hearing shall be held at such time and place as may be prescribed by

the board, and any interested person is entitled to be heard.

(3) When an emergency requiring immediate action is found to exist, the board may issue an emergency order without advance notice or hearing which shall be effective upon promulgation. An emergency order may not remain in effect more than 15 days.

(4) If notice is required by the chapter and the Montana Administrative Procedure Act does not apply, the notice shall be made by publication in one or more issues of a newspaper in general circulation in Helena and a newspaper of general circulation in the county where the land or some part thereon is situated, and the board may also cause publication to be made in a trade journal or bulletin of general circulation in the oil and gas industry in the state.

(5) Proof of service by publication under subsection (4) shall be made by the affidavit of the printer or publisher of the newspaper, trade journal, or bulletin in which the notice is published or by a foreman or principal clerk of the newspaper, bulletin, or trade journal.

(6) Except as provided otherwise in this chapter, the board may act upon its own motion or upon the petition of an interested person. On the filing of a petition concerning a matter within the jurisdiction of the board, the board shall

promptly fix a date for a hearing thereon and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The board shall enter its order within 30 days after the hearing."

Section 7. Codification. It is intended that sections 2 through 5 be codified as an integral part of Title 82, chapter 11, part 1, and the provisions of Title 82, chapter 11, part 1, apply to sections 2 through 5.

Section 8. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. This act is effective upon passage and approval.

-End-

The House Natural Resources Committee convened in Room 3, of the Capital Annex, on Wednesday, January 17, 1979, at 1:30 p.m., with Vice Chairman Hal Harper presiding and sixteen members present (excused were Chairman Shelden and Representative Huennekens and absent was Representative Quilici). Vice Chairman Harper opened the meeting to a hearing on HB 48 and HB 130.

HOUSE BILL 48

REPRESENTATIVE REX MANUEL, the chief sponsor, introduced the bill. He said the bill was being introduced at the request of the code commissioner. Rep. Manuel asked Larry Weinberg of the Legislative Council to explain the bill in more detail.

LARRY WEINBERG, Legislative Council, said in the process of updating the code books they came across many needed small changes which might be grammatical, sometimes inconsistencies with other parts, sometimes unnecessary redundancy, sometimes needed clarification; and, if they were nervous about making any of these changes, a recod bill was born and brought to the lawmakers and this is one of those. He went through the bill section by section explaining the changes and why. At the end he pointed out the green pages attached which also explain the changes. He said he didn't believe any substantive changes had been made in the law.

Questions were asked by the committee. Mr. Weinberger responded to one question that penalty had been changed to misdemeanor to make it consistent with the criminal law--the penalty was not changed.

Dan Mizner, Montana League of Counties, signed as supporting the bill.

HOUSE BILL 130

REPRESENTATIVE JACK RAMIREZ, the chief sponsor, said this bill was to designate a jurisdictional agency to make determinations needed for the state to qualify under the federal Natural Gas Policy Act of 1978. He said this act permits wells drilled after 1977 to charge higher prices for their gas. He said this bill would designate the Board of Oil and Gas Conservation as the agency to determine which wells qualify and to implement the rules. He said if the state agency is set up and operating by March 1, the higher gas prices would be retroactive to December, 1978, and so it is important to the qualifying well drillers that we act quickly. He said this should not affect Montana consumers as most of the gas we purchase is already contracted. He said there would be lots of benefits to the state: increased revenue from state oil leases, increased tax revenue, and Montanans that have oil leases will gain and pay additional income taxes to the state. He said there is a suggested amendment and he called on Larry Weinberg to explain the amendment.

LARRY WEINBERG, Legislative Council, said the suggested amendment was on page 4, line 15, to strike "graduate." He said this was a matter of economics as a BS degree holder might come a little more reasonable than an MS or Ph.D. He said another suggested amendment is on page 5, line 3, following "the" to insert "notice and hearing but not the appeal provisions of the contested case procedures of the". He said there would be a review in contested cases heard by the board with full notice and hearing but there is no appeal allowed on the state level from the decision as this is allowed on the federal level.

LOU MOORE, Billings, Montana, was the next proponent speaker. A copy of his testimony is exhibit 1 and part of the minutes. He said he has assisted the Board of Oil and Gas Conservation in drafting the regulations which will be implemented if this legislation is passed. He said he supports the amendments proposed by the Legislative Council.

DON GARRITY, attorney for the Board of Oil and Gas Conservation, was the next proponent speaker. He said the federal act basically says that the states should make the determinations and he said they are fairly simple determinations: was it a good well, was it built after 1977, is it two and a half miles or more from a marker well, is the well producing a certain amount of gas. He said all information presented to the board must be in writing. The examiner will make his determination on this written material to save time and expense. He said they would not require many new faces in their agency to do this task.

DON ALLEN, Montana Petroleum Association, spoke in support of the bill. He said various state officials have attended various workshops on this federal policy act. He said other states are making similar provisions. He said it would be to the best interests of the citizens of this state and he hoped the committee would pass the bill swiftly.

During questions from the committee, Rep. Johnston mentioned that the Board of Oil and Gas Conservation is supported by taxes on the oil and gas producers. Mr. Garrity said they might ask for an appropriation from the general fund to cover this. Rep. McBride asked if there was any other agency that could handle this. Mr. Moore said the Board of Oil and Gas Conservation is presently handling matters to do with the drilling of oil and gas wells and seems the logical agency to do this. Rep. Fagg asked how much money is involved and who will pay. Mr. Moore said the money will come from the purchasers of gas--most of the gas involved will be exported out of state as most of the purchasers instate have contracts. Newer contracts will be impacted by this legislation, he said, if they contain clauses that permit increases. However, they are not intrastate carriers. Mr. Moore responded to a question by saying increasing the price will cause an increase in the drilling for gas if there is a market for it. He said the opening up of Canada has caused a

glut of gas, all of this because of the changing over to oil, coal, etc. Rep. Fagg also mentioned a problem they had in Billings where MDU was unable to connect a party that desired natural gas. Mr. Moore said this was due to bureaucratic bungling in Washington and there were restrictions that should no longer be as MDU now has access to sufficient natural gas.

Signing as favoring the bill were:
Dave Goss, Billings
David W. Woodgerd, Board of Oil and Gas Conservation

Vice Chairman Harper closed the hearing on the bills and opened the meeting to an executive session on these bills.

EXECUTIVE SESSION

HOUSE BILL 48 Rep. Fagg moved do pass. Rep. Scully said he did not like the removal of the "freeholder" concept. He said he was firmly convinced that there are places where it is proper to have a freeholder concept. He said where you are involved with planning it is not unreasonable that you have owners of the property on the board. He moved that all references to freeholder be reinserted. Rep. Thoft spoke his support for this also. Mr. Weinberg said where voting rights are concerned the federal courts have said it must be open to all residents; petitions can be restricted to just freeholders. He said where the burdens and benefits go to the land then it is a reasonable classification to go to the freeholder. If the burdens and benefits go to both freeholder and nonfreeholder they will strike down the freeholder concept, and anyone in an area would have a stake in a planning board's decision. But he said this is the committee's decision. He said it could result in a court challenge. He said to replace the freeholder concept they should strike sections 2, 3, and 4 of the bill. Rep. Scully moved a substitute motion to do this--to delete sections 2, 3 and 4 in order to reinsert the freeholder concept. The motion passed with Reps. Kessler, Cooney, Metcalf and McBride voting no. Rep. Fagg then moved the bill do pass as amended. The motion passed unanimously with those present (absent were Huennekens, Quilici and Shelden). Rep. Nathe moved the bill be placed on the consent calendar. Rep. Harper voted no so this motion failed. HB 48 received a committee DO PASS AS AMENDED.

HOUSE BILL 130 Rep. Johnston moved do pass as amended (using the two suggested Legislative Council amendments). Motion passed unanimously. Rep. Cooney moved that the bill be placed on the consent calendar. This motion passed unanimously. (Absent the same as above). HB 130 will be placed on the consent calendar with a DO PASS AS AMENDED.

Meeting adjourned at 2:55 p.m.

Respectfully submitted,

Phyllis Brown, Secretary

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

January 29, 1979

The fourth meeting of the Natural Resources Committee was called to order by Senator George F. Roskie, Chairman, at 12:45 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call, all members were present with the exception of Senators Dover, Brown, Lockrem, Story, and Thiessen. Senator Stan Stevens, Majority Leader of the Senate, sat in temporarily as a committee member. Senator Dover and Senator Thiessen arrived late. Senator Brown also arrived late and stayed only until a quorum was established. See attached visitors' register for the names of visitors present.

CONSIDERATION OF HB 120: Chairman Roskie introduced Representative Bill Hand, District 82, to the Committee and asked him to explain HB 120. Representative Hand gave a brief explanation of the change proposed by HB 120.

Chairman Roskie called for any other proponents. Mr. Horace Hand, Western Laboratories of Helena, spoke in favor of HB 120. Mr. Frank Dunkle, Montana Mining Association, also spoke in favor of HB 120.

Chairman Roskie then called for any opponents to HB 120 and, hearing none, opened the hearing to questions from the Committee. There were no questions.

Senator Brown arrived at this time.

DISPOSITION OF HB 120: Senator Lowe moved that HB 120 BE CONCURRED IN. The motion carried unanimously with those present. Senator Jergeson moved that HB 120 be put on the Consent Calendar. The motion carried unanimously with those present and HB 120 was placed on the Consent Calendar.

Senator Stevens left at this time as a quorum had been established.

CONSIDERATION OF HB 130: Chairman Roskie opened the hearing on HB 130 and called on Representative Jack Ramirez, District 64, to explain HB 130 to the Committee. Representative Ramirez gave a summary of HB 130 and explained its purpose and intent to the Committee.

Senator Dover arrived at this time and Senator Brown left but recorded a yes vote on HB 130 with the Committee Secretary before leaving.

Chairman Roskie called for any other proponents to HB 130. Mr. Don Allen, Executive Director of the Montana Petroleum Association, spoke in favor of HB 130 and stated that he felt it was necessary legislation.

Chairman Roskie called for any other proponents and, hearing none, called for any opponents. Hearing none, Chairman Roskie opened the hearing to questions from the Committee and a brief discussion ensued.

At this point Senator Thiessen arrived.

DISPOSITION OF HB 130: Senator Dover moved that HB 130 BE CONCURRED IN and Senator Lowe seconded the motion. The motion carried unanimously with those present.

Chairman Roskie asked Representative Ramirez if he thought there was any need for a statement of intent. Representative Ramirez responded by saying that he felt HB 130 probably should have a statement of intent, but that the Rules Committee had not yet set up a procedure for that. He also mentioned that the question did not come up when the House was considering the bill.

There was some discussion on whether or not a statement of intent was necessary. Senator Dover suggested a statement be put in the minutes expressing the Committee's intent with regards to HB 130, and it was agreed that a statement in the minutes might be sufficient. Senator Dover then moved that the minutes state that it is the intent of the Committee to not go beyond the minimum legal requirements of the Natural Gas Policy Act of 1978.

Senator Lowe suggested the Committee leave the question alone at this time. The Committee agreed and Senator Dover withdrew his motion.

Representative Ramirez reread the title of HB 130 and said he felt the title adequately stated the bill's intent.

ADJOURNMENT: There being no further business, the meeting adjourned at 1:20 P.M.

SENATOR GEORGE F. ROSKIE, CHAIRMAN

Date 1/29/79

ROLL CALL

Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
ROSKIE, George F., Chairman	✓		
DOVER, Harold L., Vice-Chairman	✓		
BROWN, Steve	✓		✓
ETCHART, Mark	✓		
JERGESON, Greg	✓		
LOCKREM, Lloyd C., Jr.		✓	
LOWE, William R.	✓		
MANLEY, John E.	✓		
STORY, Pete		✓	
THIESSEN, Cornie R.	✓		

Each Day Attach to Minutes.

SENATE

STANDING COMMITTEE REPORT

January 29, 19 79

MR. President

We, your committee on Natural Resources

having had under consideration House Bill No. 130

Respectfully report as follows: That House Bill No. 130

DO PASS ~~DO~~
BE CONCURRED IN

George F. Roskie, Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE Natural Resources COMMITTEE

HB HB
BILL 120 & 130 VISITORS' REGISTER DATE 1/29/79

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSI
Richard W Albert	self	120 HB 130		
Frank Dundas	Mt. Mining Assn	120	✓	
Jack Lammers	HD 64	130		
Dave Woodgerd	Bd. of O+G Conservation	130	—	
Carol L Pickard	Mont. Petroleum Assn.			
Pat Stewart	Mt. Coal Council			
Shelly Thompson	Mt. Mining Assoc.			
Larry Gerbin	Legis Council	HB 130		
Rebecca L. Williams	—			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STATEMENT OF INTENT RE: HB 130

1. A statement of intent is required for this bill in that it delegates authority to adopt rules in Section 4, (1).

2. House Bill No. 130 is enacted in order to secure state jurisdiction under terms of the Natural Gas Policy Act of 1978. The rules adopted should go no further than absolutely required by state or federal law.

First adopted by the SENATE COMMITTEE ON NATURAL RESOURCES on February 1, 1979.

HB 130

HOUSE BILL NO. 130

INTRODUCED BY RAMIREZ, GERKE

A BILL FOR AN ACT ENTITLED: "AN ACT TO DESIGNATE THE BOARD OF OIL AND GAS CONSERVATION AS THE MONTANA JURISDICTIONAL AGENCY FOR PURPOSES OF THE NATURAL GAS POLICY ACT OF 1978 AND ANY SUCCESSOR OR SIMILAR LEGISLATION AND TO PROVIDE FOR A PROCEDURE TO IMPLEMENT STATE AUTHORITY UNDER THE FEDERAL LAW; AMENDING SECTIONS 82-11-101 AND 82-11-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

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REFERENCE BILL

persons holding such authority by or through him.

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(d) the inefficient storing of oil or gas. (The production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board, is not waste within the meaning of this definition.)"

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section and [section 3] shall be reviewed by the board upon request of two members of the board. The review by the board is subject to the NOTICE AND HEARING BUT NOT THE APPEAL PROVISIONS OF THE CONTESTED CASE PROCEDURES OF THE Montana Administrative Procedure Act. The request for review must be made within 20 days after an examiner makes a determination. If no request for a review is made during this 20-day period, the examiner's determination is considered to be the determination of the board and the determination, together with the accompanying record, shall be forwarded to the federal energy regulatory commission for review. If a review by the board is requested, the board shall forward the final determination to the federal energy regulatory commission.

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-End-